

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Atty. Docket

FABIO VIGNOLI ET AL.

PHNL 020892

Serial No.: 10/528,681

Group Art Unit: 2169

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Examiner: S.J. Emerson

SYSTEM AND METHOD FOR ASSOCIATING DIFFERENT TYPES OF MEDIA CONTENT

Commissioner for Patents

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Sir:

APPEAL BRIEF

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(i) Real Party in Interest

The real party in interest in this application is KONINKLIJKE PHILIPS ELECTRONICS N.V. by virtue of an assignment from the inventors recorded on March 21, 2005, at Reel 017329, Frame 0830.

(ii) Related Appeals and Interferences

There are no other appeals and/or interferences related to this application.

(iii)      Status of Claims

Claims 1-12 stand finally rejected by the Examiner. Appellants hereby appeal the rejection of claims 1-12.

(iv) Status of Amendments

There was one Response filed on November 13, 2007, after final rejection of the claims on October 2, 2007, this Response having been considered by the Examiner.

The subject invention relates to a system for operating with different types of media content. In known data processing devices, audio and video contents correspond to each other because they are received together from a content provider, e.g., a TV broadcaster or the like. However, the user may like simultaneous rendering of media contents which are not related by the content provider, e.g., pairing a video content with a totally unrelated audio content.

As claimed in claim 1, the subject invention is embodied in "a system for operating with different types of media content". This is shown in Fig. 1, and described in the specification on page 3, lines 12-21, where it is indicated that people watch, listen to and browse different audio and video information using various consumer electronic devices such as a TV set, VCR, CD player, PDA, etc.

Claim 1 further indicates that "the system being arranged to enable a user to use a first content of a first type". This is shown in Fig. 1, and described in the specification on page 3, lines 30-31, where one or more media devices capable of outputting the media content may be included in the system.

The invention, as claimed in claim 1, includes "identifying means for identifying that the user concurrently uses a second content of a second type". This is shown in Fig. 2, and described in the specification on page 3, lines 21-23, where identifying means 120 identifies that the user concurrently uses at least two

contents of different types, i.e., a content of a second type concurrently with a content of a first type.

In addition, as claimed in claim 1, "said second content being unrelated with the first content". This is described in the specification on page 3, lines 23-24. It should be noted that in the case of audio-visual data such as motion picture, the video and audio streams are synchronized, and description data accompanying the audio-visual data describes the content collectively, thereby establishing a relationship between the video data and the audio data (in the specification, see page 1, lines 8-18).

Finally, the invention, as claimed in claim 1, includes "associating means for associating said second content with the first content". This is shown in Fig. 2, and described in the specification on page 4, line 27 to page 5, line 13, in which, based on the output of the identifying means 120 supplying information concerning the user's concurrent uses of different contents, associating means 210 associates the two or more contents, the simultaneous use of which having been identified by the identifying means.

As claimed in claim 2, the system of the subject invention includes "storage means arranged to store meta-data comprising information pertaining to said associated first and second content". This is shown in Fig. 2, and described in the specification on page 4, lines 30-33, in which the associating means 210 generates meta-data of information pertaining to a



relationship between the associated contents, and on page 6, lines 1-2, in which storage means 220 stores the meta-data.

As claimed in claim 3, the system of the subject invention includes "selection means arranged to select the content". This is shown in Fig. 2, and described in the specification on page 6, lines 1-2, in which the system includes selection means 230 for selecting the content (e.g., the first and second contents).

In claim 4, "said selection means are further arranged to identify the first content upon selection of the associated second content and/or to identify the second content upon selection of the associated first content, using said information stored in the meta-data". This is described in the specification on page 6, lines 11-15.

In addition, as claimed in claim 5, "said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-operable selection of one of said associated second and first content, respectively, using said selection means". This is described in the specification on page 6, lines 17-27.

As claimed in claim 6, the system of the subject invention includes "output means arranged to simultaneously output said associated first and second content". This is shown in Fig. 2, and described in the specification on page 6, lines 1-3, where output means 240 outputs the associated content selected by the selection means 230.

As claimed in claim 7, "said selection means are further arranged to user-operably modify said meta-data". This is described in the specification on page 8, lines 26-30.

As claimed in claim 8, "said identifying means is arranged to identify a user's usage of a third content of a second or other type, said usage being concurrent to said user's usage of the first content, and said third content being unrelated with the first content", and "said associating means is arranged to associate said third and first content". This is described in the specification on page 7, lines 18-26.

The system, as claimed in claim 8, also includes "rating means arranged to rate said association of the first content with the second content and/or with the third content". this is shown in Fig. 2, and described in the specification on page 7, lines 18-26, in which rating means 250 rates the association of the first content with the second content, and the first content with the third content.

As claimed in claim 9, the system of the subject invention includes "a plurality of devices, each device including output means arranged to output at least one type of the media content, and/or input means arranged to obtain at least one type of the media content". This is shown in Fig. 1, and described in the specification on page 3, lines 12-31, where it is described "One or many media devices capable of outputting and/or inputting the media content may be included in the system."

The subject invention also relates to a method of operating with different types of media content. As claimed in claim 11, the method includes a step of "identifying a user's usage of a first content of a first type". This is shown in Fig. 5, and described in the specification on page 9, lines 6-9.

Further, the method of claim 11 includes the step "identifying that the user concurrently uses a second content of a second type, said second content being unrelated with the first content". This is shown in Fig. 5, and described in the specification on page 9, lines 6-10, in which in step 510, concurrent usage of the first content and the second content is identified.

In addition, the method of claim 11 includes the step "associating said second content with the first content". This is shown in Fig. 5, and described in the specification on page 9, lines 10-15, in which, in step 520 the first and second contents are associated.

Finally, the subject invention, as claimed in claim 12, includes "A computer program product enabling a programmable device, when executing said computer program product, to function as the system as defined in claim 1". This is described in the specification on page 9, lines 17-28.

(vi) Grounds of Rejection to be Reviewed on Appeal

- (A) Whether the invention, as claimed in claims 1-5 and 7-12, is anticipated, under 35 U.S.C. 102(e), by U.S. Patent 6,987,221 to Platt.
- (B) Whether the invention, as claimed in claim 6, is unpatentable, under 35 U.S.C. 103(a), over Platt in view of U.S. Patent 6,392,133 to Georges.

(vii) Arguments

**(A) The 35 U.S.C. 102(e) Rejection Of Claims 1-5 and 7-12**

35 U.S.C. 102(e) states:

"A person shall be entitled to a patent unless -

(e) the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;...."

The Platt patent discloses autoplaylist generation with multiple seed songs, i.e., shows a system for generating playlists using desirable seed items and undesirable seed items (see, Col. 2, lines 16-23 as cited in the Office Action). While the seed items may include media, such as audio and video media (see, Col. 4, lines 17-20 cited in the Office Action), it is respectfully submitted that the playlist of Platt is a list of media items that are played sequentially.

As noted in MPEP §2131, it is well-founded that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v.*

Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

**1. Claims 1, 11, 12**

The Examiner has indicated that the limitation "identifying means for identifying that the user concurrently uses a second content of a second type, said second content being unrelated with the first content" is disclosed in Platt at col. 4, lines 17-20 and col. 2, lines 10-25.

Applicants submit that the Examiner is mistaken. In particular, the noted sections of Platt state:

"The seed item(s) can be media such as, but not limited to, audio (e.g., songs), movies (e.g., AVI or MPEG files), documents, electronic books, images and the like."

and

"The present invention relates generally to systems and methodologies that facilitate generation of playlists. The invention can also facilitate organization and access to media items by identifying items similar to desirable characteristics and dissimilar to undesirable characteristics by analyzing user selectable seed items.

"The present invention facilitates playlist generation for a library or collection of media items by permitting a user to select a plurality of seed items. Some of the seed items are selected as desirable indicating that the user prefers additional media items similar to the desirable seed items and others are selected as undesirable indicating that the user prefers additional media items dissimilar to the undesirable seed items. Additionally, the user can weight the seed items to establish a relative importance thereof. The invention compares media items in the collection with the seed items and determines which media items to be added to the playlist."

Appellants submit that an examination of the above sections shows that Platt is merely creating a playlist of media items that are to be rendered sequentially. There is no disclosure or suggestion of identifying that a user concurrently uses (along with the first content) a second content of a second type, nor that the second content is unrelated to the first content.

On the other hand, this is clearly disclosed in the specification of the subject application which, on page 9, lines 11-15, states "For instance, the user may watch a slide show of pictures on the display screen together with a certain song being played by the CD player in the system, or the user may often listen to some songs when the user would like to download certain pictures. Such contents being used by the user simultaneously are associated."

The Examiner then states with respect to the claim 1 limitation "associating means for associating said second content with the first content", "the association of music videos to songs is given as an example, column 8, lines 18-25".

Again, Appellants submit that the Examiner is mistaken. In particular, that section of Platt states:

"By way of illustration, if a user desires to view a group of music videos that are from the same genre with a similar rhythm (e.g., punk, frenetic), then appropriate similarity criteria can be employed to produce a playlist 850 of such similar songs. By way of further illustration, if a user wishes to view a mixed group of music videos (e.g., pop, rock, country), other appropriate similarity criteria can be employed to produce the playlist 850 of such mixed songs.

It should be apparent that Platt is using "music videos" and "songs" interchangeably. Note that the section states "if a user desires to view a group of music videos". Surely, Platt is not suggesting that instead of the desired music videos, the system should give the user audio songs. In that context, it should be apparent that Platt is stating that the system generates a playlist of music videos of a particular genre, based on the genre of the seed item (a particular music video), or based on seed item identifier(s). This being said, however, there is no disclosure or suggestion of "associating said second content with the first content".

**B. The 35 U.S.C. 103(a) Rejection Of Claim 6**

35 U.S.C. 103(a) states:

"(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made."

The above arguments concerning Platt are incorporated herein.

Claim 6 includes the limitation "The system of claim 4, further comprising output means arranged to simultaneously output said associated first and second content".

The Georges patent discloses an automatic soundtrack generator which is capable of outputting a video signal and an audio signal replacing the audio signal recorded with the video signal.



However, Appellants submit that Georges does not supply that which is missing from Platt, i.e., "identifying means for identifying that the user concurrently uses a second content of a second type, said second content being unrelated with the first content" and "associating means for associating said second content with the first content".

Based on the above arguments, Appellants believe that the subject invention is neither anticipated nor rendered obvious by the prior art and is patentable thereover. Therefore, Appellants respectfully request that this Board reverse the decisions of the Examiner and allow this application to pass on to issue.

Respectfully submitted,

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(viii) Claims Appendix

1. (Original) A system for operating with different types of media content, the system being arranged to enable a user to use a first content of a first type, characterized in that the system comprises: identifying means for identifying that the user concurrently uses a second content of a second type, said second content being unrelated with the first content, and associating means for associating said second content with the first content.
2. (Original) The system of claim 1, further comprising storage means arranged to store meta-data comprising information pertaining to said associated first and second content.
3. (Original) The system of claim 1, further comprising selection means arranged to select the content.
4. (Previously presented) The system of claim 2, wherein said selection means are further arranged to identify the first content upon selection of the associated second content and/or to identify the second content upon selection of the associated first content, using said information stored in the meta-data.
5. (Original) The system of claim 4, wherein said selection means are further arranged to function as a recommender for recommending the associated first or second content upon a user-

operable selection of one of said associated second and first content, respectively, using said selection means.

6. (Original) The system of claim 4, further comprising output means arranged to simultaneously output said associated first and second content.

7. (Original) The system of claim 2, wherein said selection means are further arranged to user-operably modify said meta-data.

8. (Previously presented) The system of claim 1, wherein said identifying means is arranged to identify a user's usage of a third content of a second or other type, said usage being concurrent to said user's usage of the first content, and said third content being unrelated with the first content, and wherein said associating means is arranged to associate said third and first content, the system further comprising rating means arranged to rate said association of the first content with the second content and/or with the third content.

9. (Original) The system of claim 1, comprising a plurality of devices, each device including output means arranged to output at least one type of the media content, and/or input means arranged to obtain at least one type of the media content.

10. (Previously presented) The system of claim 1, wherein said first and second content correspond to video and audio content.

11. (Original) A method of operating with different types of media content, the method comprising a step of identifying a user's usage of a first content of a first type, characterized in that the method further comprises a step of identifying that the user concurrently uses a second content of a second type, said second content being unrelated with the first content, and a step of associating said second content with the first content.

12. (Previously presented) A computer program product enabling a programmable device, when executing said computer program product, to function as the system as defined in claim 1.

(ix) Evidence Appendix

There is no evidence which had been submitted under 37 C.F.R. 1.130, 1.131 or 1.132, or any other evidence entered by the Examiner and relied upon by Appellant in this Appeal.

(x) Related Proceedings Appendix

Since there were no proceedings identified in section (ii) herein, there are no decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of 37 C.F.R. 41.37.